

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
MIDLAND/ODESSA DIVISION**

INTELLECTUAL VENTURES I LLC and  
INTELLECTUAL VENTURES II LLC,

*Plaintiffs,*

v.

SOUTHWEST AIRLINES CO.,

*Defendant.*

**Civil Action No. 7:24-cv-00277-ADA**

**JURY TRIAL DEMANDED**

**DECLARATION OF JOHN W. DOWNING**

I, John W. Downing, declare as follows:

1. I am a Partner with the law firm of Kasowitz Benson Torres LLP. I am one of the attorneys responsible for the representation of Plaintiffs Intellectual Ventures I LLC and Intellectual Ventures II LLC (collectively, “Plaintiffs” or “IV”) in this matter and make this declaration in support of Plaintiffs’ Response to Southwest Airlines Co.’s (“Defendant” or “Southwest”) Notice of Partial Opposition to Plaintiffs’ Unopposed Motion for Leave (Dkt #37).

2. During the parties’ May 22, 2025 meet-and-confer, IV discussed the addition of new patents. Southwest indicated that it would not oppose a motion to amend the complaint so long as the schedule was adjusted to provide additional time to serve preliminary invalidity contentions. Southwest requested a copy of the amended complaint. IV explained that it would only provide a copy of the amended complaint if Southwest agreed not to file a declaratory judgment action. Southwest declined. At no point did Southwest raise concerns over whether the number of patents would be four, five, or more.

3. On May 23, 2025, the parties met and conferred again about the amended scheduling order. The number of patents or technologies was not discussed.

4. On May 27, 2025, the parties held another meet-and-confer at which time IV offered to alleviate any claimed prejudice from the addition of the fifth patent by modifying the schedule to provide Southwest additional time to submit its preliminary invalidity contentions.

5. Attached hereto as Exhibit 1 is a true and correct copy of IV's counsel's May 20, 2025 email at 2:05 p.m. Pacific. IV intended to use the phrase "four or more" additional patents" in this email.

6. Attached hereto as Exhibit 2 is a true and correct copy of Southwest's counsel's May 22, 2025 email at 11:17 a.m. Pacific.

7. Attached hereto as Exhibit 3 is a true and correct copy of IV's counsel's May 22, 2025 email at 1:01 p.m. Pacific.

8. Attached hereto as Exhibit 4 is a true and correct copy of Southwest's counsel's May 23, 2025 email at 5:25 p.m. Pacific.

9. Attached hereto as Exhibit 5 is a true and correct copy of IV's counsel's May 23, 2025 email at 5:27 p.m. Pacific enclosing drafts of Plaintiffs' Unopposed Motion Leave to File Amended Complaint and Joint Motion to Amend Scheduling Order.

10. Attached hereto as Exhibit 6 is a true and correct copy of Southwest's counsel's May 23, 2025 email at 6:21 p.m. Pacific.

11. Attached hereto as Exhibit 7 is a true and correct copy of IV's counsel's May 23, 2025 email at 6:26 p.m. Pacific.

12. Attached hereto as Exhibit 8 is a true and correct copy of the Notice of Electronic Filing of Docket Number 37 in this case.

13. Attached hereto as Exhibit 9 is a true and correct copy of the Notice of Electronic Filing of Docket Number 38 in this case.

14. Attached hereto as Exhibit 10 is a true and correct copy of Southwest's counsel's May 24, 2025 email at 5:48 a.m. Pacific.

15. Attached hereto as Exhibit 11 is a true and correct copy of Southwest's counsel's May 24, 2025 email at 6:11 a.m. Pacific.

16. Attached hereto as Exhibit 12 is a true and correct copy of IV's counsel's May 25, 2025 email at 6:25 p.m. Pacific. Had Southwest agreed not to file a declaratory judgment action on the patents to be added, IV would have provided Southwest a copy of its amended complaint clearly showing the five additional patents to be asserted.

17. Attached hereto as Exhibit 13 is a true and correct copy of IV's counsel's May 25, 2025 email at 6:46 p.m. Pacific.

18. Attached hereto as Exhibit 14 is a true and correct copy of IV's counsel's May 27, 2025 email at 5:54 a.m. Pacific.

19. Attached hereto as Exhibit 15 is a true and correct copy of the Notice of Electronic Filing of Docket Number 39 in this case.

20. Attached hereto as Exhibit 16 is a true and correct copy of IV's counsel's May 27, 2025 email at 5:00 p.m. Pacific

21. Attached hereto as Exhibit 17 is a true and correct copy of IV's counsel's May 28, 2025 email at 8:43 p.m. Pacific.

22. Attached hereto as Exhibit 18 is a true and correct copy of IV's counsel's May 28, 2025 email at 9:57 p.m. Pacific.

I hereby declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief, formed after reasonable inquiry under the circumstances.

Executed on the 29th day of May, 2025, in Redwood Shores, California.

/s/ John W. Downing  
John W. Downing